

Environmental Protection Agency

§ 1068.5

setting part if they are different than any of the provisions in this part.

(d)(1) The provisions of §§1068.30 and 1068.310 apply for stationary spark-ignition engines built on or after January 1, 2004, and for stationary compression-ignition engines built on or after January 1, 2006.

(2) The provisions of §§1068.30 and 1068.235 apply for the types of engines/equipment listed in paragraph (a) of this section beginning January 1, 2004, if they are used solely for competition.

[73 59344, Oct. 8, 2008, as amended at 75 FR 23058, Apr. 30, 2010]

§ 1068.2 How does this part apply for engines and how does it apply for equipment?

(a) See the standard-setting part to determine if engine-based and/or equipment-based standards apply. (Note: Some equipment is subject to engine-based standards for exhaust emission and equipment-based standards for evaporative emissions.)

(b) The provisions of this part apply differently depending on whether the engine or equipment is required to be certified.

(1) Subpart A and subpart B of this part apply to engines and equipment, without regard to which is subject to certification requirements in the standard-setting part.

(2) Subparts C, D, and E of this part apply to the engines or to the equipment, whichever is subject to certification requirements in the standard-setting part.

(3) Subpart F of this part generally applies to the engines or to the equipment, whichever is subject to standards under the standard-setting part. However, since subpart F of this part addresses in-use engines and equipment (in which the engine is installed in the equipment), the requirements do not always distinguish between engines and equipment.

(c) For issues related to testing, read the term “engines/equipment” to mean engines for engines subject to engine-based testing and equipment for equipment subject to equipment-based testing; otherwise, read the term “engines/equipment” to mean engines for sources subject to engine-based stand-

ards and equipment for sources subject to equipment-based standards.

(d) When we use the term engines (rather than engines/equipment), read it to mean engines without regard to whether the source is subject to engine-based standards or testing. When we use the term equipment (rather than engines/equipment), read it to mean equipment without regard to whether the source is subject to equipment-based standards or testing. (Note: The definition of “equipment” in §1068.30 includes the engine.)

(e) The terminology convention described in this section is not intended to limit our authority or your obligations under the Clean Air Act.

§ 1068.5 How must manufacturers apply good engineering judgment?

(a) You must use good engineering judgment for decisions related to any requirements under this chapter. This includes your applications for certification, any testing you do to show that your certification, production-line, and in-use engines/equipment comply with requirements that apply to them, and how you select, categorize, determine, and apply these requirements.

(b) If we send you a written request, you must give us a written description of the engineering judgment in question. Respond within 15 working days of receiving our request unless we allow more time.

(c) We may reject your decision if it is not based on good engineering judgment or is otherwise inconsistent with the requirements that apply, based on the following provisions:

(1) We may suspend, revoke, or void a certificate of conformity if we determine you deliberately used incorrect information or overlooked important information, that you did not decide in good faith, or that your decision was not rational.

(2) If we believe a different decision would better reflect good engineering judgment, but none of the provisions of paragraph (c)(1) of this section apply, we will tell you of our concern (and its basis). You will have 30 days to respond to our concerns, or more time if we agree that you need it to generate more information. After considering your information, we will give you a

§ 1068.10

40 CFR Ch. I (7–1–10 Edition)

final ruling. If we conclude that you did not use good engineering judgment, we may reject your decision and apply the new ruling to similar situations as soon as possible.

(d) We will tell you in writing of the conclusions we reach under paragraph (c) of this section and explain our reasons for them.

(e) If you disagree with our conclusions, you may file a request for a hearing with the Designated Compliance Officer as described in subpart G of this part. In your request, specify your objections, include data or supporting analysis, and get your authorized representative's signature. If we agree that your request raises a substantial factual issue, we will hold the hearing according to subpart F of this part.

§ 1068.10 What provisions apply to confidential information?

(a) Clearly show what you consider confidential by marking, circling, bracketing, stamping, or some other method.

(b) We will store your confidential information as described in 40 CFR part 2. Also, we will disclose it only as specified in 40 CFR part 2. This applies both to any information you send us and to any information we collect from inspections, audits, or other site visits.

(c) If you send us a second copy without the confidential information, we will assume it contains nothing confidential whenever we need to release information from it.

(d) If you send us information without claiming it is confidential, we may make it available to the public without further notice to you, as described in 40 CFR 2.204.

§ 1068.15 What general provisions apply for EPA decision-making?

(a) The Administrator of the Environmental Protection Agency or any official to whom the Administrator has delegated specific authority may represent the Agency. For more information, ask for a copy of the relevant sections of the EPA Delegations Manual from the Designated Compliance Officer.

(b) The regulations in this part and in the standard-setting part have spe-

cific requirements describing how to get EPA approval before you take specific actions. These regulations also allow us to waive some specific requirements. For provisions or flexibilities that we address frequently, we may choose to provide detailed guidance in supplemental compliance instructions for manufacturers. Such instructions will generally state how they relate to the need for pre-approval. Unless we explicitly state so, you should not consider full compliance with the instructions to be equivalent to EPA approval.

§ 1068.20 May EPA enter my facilities for inspections?

(a) We may inspect your testing, manufacturing processes, storage facilities (including port facilities for imported engines and equipment or other relevant facilities), or records, as authorized by the Clean Air Act, to enforce the provisions of this chapter. Inspectors will have authorizing credentials and will limit inspections to reasonable times—usually, normal operating hours.

(b) If we come to inspect, we may or may not have a warrant or court order.

(1) If we do not have a warrant or court order, you may deny us entry.

(2) If we have a warrant or court order, you must allow us to enter the facility and carry out the activities it describes.

(c) We may seek a warrant or court order authorizing an inspection described in this section whether or not we first tried to get your permission to inspect.

(d) We may select any facility to do any of the following:

(1) Inspect and monitor any aspect of engine or equipment manufacturing, assembly, storage, or other procedures, and any facilities where you do them.

(2) Inspect and monitor any aspect of engine or equipment test procedures or test-related activities, including test engine/equipment selection, preparation, service accumulation, emission duty cycles, and maintenance and verification of your test equipment's calibration.

(3) Inspect and copy records or documents related to assembling, storing,